

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 13 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ROBERT J. FOTI,

Plaintiff - Appellant,

v.

COUNTY OF SAN MATEO; et al.,

Defendants - Appellees.

No. 04-17389

D.C. No. CV-00-04783-SI

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Susan Yvonne Illston, District Judge, Presiding

Submitted December 5, 2005**

Before: GOODWIN, TASHIMA, and FISHER, Circuit Judges.

Robert J. Foti appeals pro se the district court's summary judgment in favor of defendants in Foti's 42 U.S.C. § 1983 action alleging false arrest and false imprisonment arising from a traffic stop. We have jurisdiction pursuant to 28

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

U.S.C. § 1291. We review de novo, *Feiler v. United States*, 62 F.3d 315, 316 (9th Cir. 1995), and we affirm.

The district court properly determined that Foti's false arrest claim was barred by collateral estoppel because the underlying issue of probable cause to arrest Foti had already been determined in state court. *See Haupt v. Dillard*, 17 F.3d 285, 288 (9th Cir. 1994); *McGowan v. City of San Diego*, 208 Cal.App.3d 890, 895-96 (1989).

The district court properly granted summary judgment on Foti's claim that it was unreasonable to detain him for four and a half hours before bringing him to a Superior Court judge, particularly in light of uncontroverted evidence that Foti refused to cooperate with officers and refused to speak to the Municipal Court commissioner before whom he appeared within an hour of his arrest. *See United States v. Van Poyck*, 77 F.3d 285, 289 (9th Cir. 1996).

AFFIRMED.